MT LEGISLATIVE HISTORY

Chapter 227 1977

Bill (H) 202 S _____ Original bill & hist. ___C

H. Committee on Judiciary

Hearing Date(s) JAN 19 ✓C

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_____ ___C

Date Out _____ ___C

S. Committee on Judiciary

Hearing Date(s) MAR 04 ✓C

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Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

LC 0513/01

INTRODUCED BY Scully, Ramirez

BILL NO. H 202

A BILL FOR AN ACT ENTITLED: "AN ACT TO RAISE THE LIMITATION ON THE AMOUNT OF RECOVERY FROM PARENTS OF CHILDREN WHO WILLFULLY DESTROY PROPERTY FROM $300 TO $1,500; AMENDING SECTIONS 61-112.1 AND 61-112.2, R.C.M. 1947."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section ~~61~~-112.1, R.C.M. 1947, is amended to read as follows:

"61-112.1. Destruction of property by person under ~~18~~ eighteen -- liability of parents for. Any municipal corporation, county, city, town, school district, or department of the state of Montana, or any person, or any religious organization, whether incorporated or unincorporated, ~~shall be~~ is entitled to recover damages in a civil action in an amount not to exceed ~~three hundred dollars ($300.00)~~ $1,500 in a court of competent jurisdiction from the parents of any person under the age of ~~eighteen (18)~~ years, living with the parents, who shall maliciously or willfully destroy property, real, personal, or mixed, belonging to such municipal corporation, county, city, town, school district, or department of the state of Montana, or person or religious organization."

INTRODUCED BILL

Section 2. Section 61-112.2, R.C.M. 1947, is amended to read as follows:

"61-112.2. Limitation on amount of recovery. The recovery shall be limited to the actual damages in an amount not to exceed ~~three hundred dollars ($300.00)~~ $1,500 in addition to taxable court costs, and a reasonable attorney's fee to be set by the court, not to exceed ~~one hundred dollars ($100)~~. The right to recover attorney fees as provided by this section ~~shall be~~ is limited to a person bringing an action under ~~section~~ 61-112.1 ~~R.C.M. 1947~~."

-End-

FORTY-FIFTH LEGISLATIVE SESSION

1977

COMMITTEE ON JUDICIARY

BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CONCURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CONCURRED IN DATE
H.B. 79	2-4-77	3-4-77	4-19-77				4-19-77		
H.B. 80	1-25-77	3-3-77	3-16-77					3-16-77	
H.B. 116	1-27-77	3-10-77	3-16-77					3-16-77	
H.B. 164	1-27-77	3-10-77	3-29-77					3-29-77	
H.B. 177	1-25-77	3-8-77	3-24-77					3-24-77	
H.B. 200	3-5-77	3-28-77	Tabled 3-30-77						
H.B. 202	1-27-77	3-4-77	3-4-77				3-4-77		
H.B. 226	2-2-77	2-21-77	3-12-77					3-12-77	
H.B. 238	3-11-77	3-22-77	3-24-77						3-24-77
H.B. 243	2-23-77	3-25-77	Tabled 3-31-77						
H.B. 247	2-24-77	3-18-77	3-18-77					3-18-77	
H.B. 251	2-21-77	3-25-77	3-31-77					3-31-77	
H.B. 260	2-21-77	3-9-77	3-19-77				3-19-77		
H.B. 261	4-6-77	4-8-77	Referred to Fin. 4-12-77		& Clms.	Comm.			
H.B. 280	2-5-77	3-29-77	3-29-77					3-29-77	
H.B. 291	2-19-77	3-16-77	3-16-77				3-16-77		

(Use Separate Sheet for Senate, House Bills, and Resolutions)

protection of society"; and to further amend page 3, line 20, following "term" by inserting "or any portion thereof". The motion carried unanimously.

CONSIDERATION OF HOUSE BILL 202:

Representative Scully, sponsor of this bill, said that there is no magic in the figures he proposes to raise the liability of parents to for malicious destruction by children. He thought that $1,500 appeared to be a logical figure, but would have no objection if the committee decided to amend it. However, he does not think it should go up very much. He said that he had basically introduced H.B. 202 at the request of the probation officers throughout the state who have been faced with the problem of restitution.

There were no opponents to H.B. 202 present.

Senator Towe moved that H.B. 202 BE CONCURRED IN. The motion carried unanimously.

CONSIDERATION OF HOUSE BILL 499:

Rep. Scully as sponsor of this bill told the committee that it deals with the increase of court fees at the district court level. The increase of $10 to $35 was objected to by people in Legal Services. He reminded them that people had the right to invoke the pauper's right. He said that the court costs have risen a lot in the past nine years, but that the fees have not been raised. He said that the suggested fees are very much in line with other states and that most states are on the $35 fee for complaints. He said further that one-fourth of the fees collected would go back to the counties' operation of the court system, but that varies a lot in different counties. There will not be a windfall to the judges' retirement system if this bill is passed.

Pat McKittrick, a former representative who was appearing on behalf of the Judges' Assn., said that Mr. Cavin of Billings was also representing them, and that they were concerned about the setting of salaries. He told the committee that $4 million dollars approximately is spent in Montana each year out of Montana taxpayers' money for litigation. He said that this bill addresses that there should be a reasonable charge to those 5% who use the court litigation process each year. He gave the committee an exhibit containing the scheduling of fees in several states. (See Exhibit 1)

The next proponent was Ray Stuart, court administrator for the Montana Supreme Court, who said that there has been a fiscal note prepared for this and similar bills, and that, actuarily speaking, the judges' retirement fund was getting in trouble. The fund was about $70,000 behind itself then. The fund should be based on a portion of the salaries.

There were no opponents present.

ROLL CALL

JUDICIARY COMMITTEE

45th LEGISLATIVE SESSION - - 1977 Date 3/4/77

NAME	PRESENT	ABSENT	EXCUSED
TURNAGE, Jean, Chairman	✓		
ROBERTS, Joe, Vice-Chairman	✓ 10:30		
MURRAY, William			
OLSON, Stuart	✓		
LENSINK, Everett	✓		
REGAN, Pat	✓		
TOWE, Tom	✓		
WARDEN, Margaret	✓		

JUDICIARY COMMITTEE

45th Legislature

Bill No.	Subject Matter	Date In	Sponsor	Hearing Date	Committee Action	Date Out
HB 202	act to raise the limitation on the amount of recovery from parents of children who willfully destroy property from $300 to $1,500 etc.	1-17	Scully	Weds 19th	do pass	1-19
HB 243	act to require the division of motor vehicles to issue special permit to operate a motor vehicle - driving under the influence, etc.	1-19	Kimble	Weds 26th	hold for amendment 28th do pass as amended	2-11
HB 251	act to provide alternative to imprisonment for persons convicted of driving while under the influence of alcohol or durgs; to provide for suspension, etc.	1-19	Harper	Monday 24th	sub-committee Weds 26th do pass as amended	2-11
HB 260	act to provide for mandatory minimum sentence of imprisonment of 10 days, etc. for persons convicted of a third or subsequent offense driving under the influence.	1-19	Gould	Monday 24th	sub-committee Weds 26th do pass as amended	2-11
H B 261	act to require mandatory nimimum prison sentences for certain violetn and drug-related crimes and for any crime committed with a dangerous weapon, etc.	1-19	Ramirez	Monday 24th	sub-committee Monday 24th do pass	1-28
HB 226	to provide a penalty for reckless driving which results from an attempt to flee from a police officer.	1-18	Keyser	Monday 24th	do pass	Weds 26th

JUDICIARY COMMITTEE

January 19, 1977

The regularly scheduled meeting was called to order by Chairman Scully at 9:00 A. M. on Wednesday, January 19, 1977, in room 436 of the Capitol Building, Helena, Montana. All members were present with the exception of Representative Dussault, absent and Representative Teague, excused.

Scheduled for hearing were House Bills 189, 193 and 202.

HEARING OPENED ON HOUSE BILL 189.
REPRESENTATIVE ROTH, CHIEF SPONSOR, District 10: This bill will create a screening committee in each house of the legislature to require that any bill in excess of five introduced by an individual legislator be approved before it may be introduced. It will also prescribe the committees procedure. The committee will consist of seven members, no more than four of whom may be of the same polici-cal party. The screening committee shall determine whether the bills submitted to it should be introduced into the legislature, giving consideration to the workload of the legislature. The import-ance of the bill and the existence or absence of similar bills will also be considered.

There were no opponents or opponents.

REPRESENTATIVE ROTH commented that the screening committee would be appointed the same as other standing committees and would be out of the legislative body.

REPRESENTATIVE KEYSER: It seems to me you would be trying to take away from the legislature the right to introduce legislation.

REPRESENTATIVE ROTH: If it is worthy it could go into the committee.

REPRESENTATIVE KEYSER: Couldn't this committee curtail this legisla-tion?

REPRESENTATIVE ROTH: I feel the committee could make a fiar and valued assessment of that bill.

REPRESENTATIVE COURTNEY: Would the committee determine what would be worthy? Would the legislative council bills be included in this?

REPRESENTATIVE ROTH: You could only appeal to the committee.

REPRESENTATIVE HOLMES: Is there another bill in the Senate?

REPRESENTATIVE ROTH: There is another bill.

REPRESENTATIVE EUDAILY: It seems to me that this committee system works pretty well. We eliminate lots of bills that are not worthy, without depriving anyone of the opportunity to introduce legislation. I am snowed with paper work and I hate to see the limitation.

REPRESENTATIVE COLBURN: I think it is somewhat unconstitutional.

DIANA DOWLING, STAFF ATTORNEY, announced that the final number of bills introduced this session was 1,603.

REPRESENTATIVE LORY: A committee of unequal number would be better because of hard feelings.

REPRESENTATIVE HOLMES: It seems to me it would add another level of hearings.

REPRESENTATIVE CONROY: I have been through this before. I introduced a bill with five and there was no committee involved. As a second term legislator, coming back, I have changed my opinion. I have almost changed my opinion on annual sessions. I think it is going to have to be up to the individual legislator to only introduce legislation that is pertinent.

REPRESENTATIVE RAMIREZ: I wonder, is there any idea how many bills this might eliminate?

General discussion followed.

Hearing closed on House Bill 89.

HEARING OPENED ON HOUSE BILL 202.

REPRESENTATIVE TEAGUE, VICE CHAIRMAN took charge of the meeting.

REPRESENTATIVE SCULLY, District 76, introduced House Bill 89: This bill will raise the limitation on the amount of recovery from parents of children who willfully destroy property from the present $300 limit to $1500. The problem we are facing is that of the victim never having the ability to recover. He mentioned a bill in the Senate that was similar, but was an unlimited amount. Representative Scully said that the $1500 did not always cover the full amount that might be due a victim, however, it would at least be an improvement.

REPRESENTATIVE ROTH: Is there any way to combine the two bills?

REPRESENTATIVE SCULLY: House Bill 193 is wide open and all I want to do is raise the limit. The $300 was passed in 1957. There are two basic areas, willful destruction of property and the joy ride type of thing that often is just a spur of the moment thing, and not planned.

REPRESENTATIVE KEYSER: What if the child is a ward of the state or something like that?

REPRESENTATIVE SCULLY: If the child has been a ward of the state the parent does not have any rights and you take away his responsibility. This would not apply to persons age 18, however.

REPRESENTATIVE EUDAILY: Does this mean that it would be necessary to go to court?

REPRESENTATIVE SCULLY: You don't have to go to court if they would willfully pay it, but you would have to go to court if they would not. You have to do that now.

General discussion followed.

Hearing on House Bill 202 closed.

HEARING OPENED ON HOUSE BILL 193.

REPRESENTATIVE SIVERTSEN, District 7, introduced House Bill 193: This bill would remove the limitation on the amount of recovery available in cases of destruction of property by a minor. This bill would remove the $300 completely.

Discussion followed and Representative Sivertsen asked that the committee consider the limitation difference.

Hearing on House Bill 193 closed.

Hearing adjourned, to be followed by an executive session.

Rep. John Scully, Chairman

Mary Ellen Connelly, Secretary

MEC/dm

Representative Lory: Eventually this will cover all tria

Discussion followed in regard to the definition of a judic. officer.

Chairman Scully said he was in favor of passage with no amend.

It was decided to postpone and Chairman Scully appointed a sub-committee to study, consisting of Representatives Lory, Ramirez and Courtney.

Representative Dussault made a motion that House Bill 65 pass for the day. Motion carried.

Representative Lory made a motion that Senate Bill 20 Do Pass. Motion was seconded and carried with unanimous vote.

House Bill 189 was next presented for discussion.

Representative Ramirez made a motion Do Not Pass. Seconded by Representative Holmes.

Representative Lory made a substitute motion, that it pass for the day. Motion carried unanimously.

Representative Conroy made a motion that House Bill 202 Do Pass. Representative Day seconded the motion. Motion carried with a unanimous vote.

Representative Lory made a motion that House Bill 193 Do Not Pass. Motion seconded, question called, motion pass with unanimous vote.

Executive Session adjourned at 11:50 A. M.

_____
Rep. John Scully, Chairman

_____
Mary Ellen Connelly, Secretary

MEC/dm

HOUSE BILL NO. 202

INTRODUCED BY SCULLY, RAMIREZ

A BILL FOR AN ACT ENTITLED: "AN ACT TO RAISE THE LIMITATION ON THE AMOUNT OF RECOVERY FROM PARENTS OF CHILDREN WHO WILLFULLY DESTROY PROPERTY FROM $300 TO $1,500; AMENDING SECTIONS 61-112.1 AND 61-112.2, R.C.M. 1947."

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REFERENCE BILL

Section 2. Section 61-112.2, R.C.M. 1947, is amended to read as follows:

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-End-